

§ 32A-22. Relation of the health care agent to a court-appointed fiduciary and to a general attorney-in-fact.

(a) If, following the execution of a health care power of attorney, a court of competent jurisdiction appoints a guardian of the person of the principal, or a general guardian with powers over the person of the principal, the guardian may petition the court, after giving notice to the health care agent, to suspend the authority of the health care agent during the guardianship. The court may suspend the authority of the health care agent for good cause shown, provided that the court's order must direct whether the guardian shall act consistently with the health care power of attorney or whether and in what respect the guardian may deviate from it. Any order suspending the authority of the health care agent must set forth the court's findings of fact and conclusions of law. The guardian shall act consistently with G.S. 35A-1201(a)(5). A health care provider shall be fully protected from liability in relying on a health care power of attorney until given actual notice of the court's order suspending the authority of the health care agent.

(b) A principal may nominate, by a health care power of attorney, the guardian of the person of the principal if a guardianship proceeding is thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in an unrevoked health care power of attorney, except for good cause shown.

(c) The execution of a health care power of attorney shall not revoke, restrict or otherwise affect any nonhealth care powers granted by the principal to an attorney-in-fact pursuant to a general power of attorney; provided that the powers granted to the health care agent with respect to health care matters shall be superior to any similar powers granted by the principal to an attorney-in-fact under a general power of attorney.

(d) A health care power of attorney may be combined with or incorporated into a general power of attorney which is executed in accordance with the requirements of this Article. (1991, c. 639, s. 1; 1998-198, s. 1; 1998-217, s. 53; 2007-502, s. 4.)